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Counsel for Defendant Trans Union LLC

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14
15 UNITED STATES DISTRICT COURT
16 DISTRICT OF NEVADA
17
18

19 MARIA DIAZ and OMAR DIAZ,
20 Plaintiff,
21 v.
22 R.C. WILEY HOME FURNISHINGS,
23 Corporation, RICHLAND HOLDINGS,
24 INC., a Corporation dba ACCTCORP;
25 EQUIFAX INC, a Corporation, and
26 TRANS UNION, LLC; a Corporation, and
27 EXPERIAN INFORMATION SOLUTION,
28 INC., a Corporation,
Defendants.

Case No. _____

DEFENDANT TRANS UNION LLC'S
NOTICE OF REMOVAL

Trans Union LLC ("Trans Union"), files this Notice of Removal pursuant to 28 U.S.C. § 1446(a) and in support thereof would respectfully show the Court as follows:

A. INTRODUCTION

1. On or about November 2, 2011, Plaintiffs Maria Diaz and Omar Diaz ("Plaintiffs") filed Plaintiffs' Complaint ("Complaint") in the District Court for Clark County,

1 Nevada, under Case No. A-11-651038-C ("State Court Action") alleging that Defendants
2 R.C. Wiley Home Furnishings, Richland Holdings, Inc. dba Acctcorp; Equifax Inc, and
3 Trans Union, LLC; a Corporation violated the Fair Credit Reporting Act, 15 U.S.C. §
4 1681 *et seq.*. On November 16, 2011, Plaintiffs filed an Amended Complaint to include
5 Experian Information Solutions Inc. as a Defendant.
6

7 2. The time period for filing a responsive pleading in the State Court Action
8 has not expired as of the filing of this Notice of Removal. No orders have been entered
9 in the State Court Action as of the filling of this Notice of Removal. The Defendants
10 were served with Plaintiffs' Complaint on the following dates: Trans Union was served
11 on November 8, 2011; R.C. Wiley Home Furnishings was served on November 3, 2011;
12 Richland Holdings, Inc. dba Acctcorp was served on November 3, 2011; and Equifax Inc
13 was served on November 8, 2011. The Amended Complaint was filed on November 16,
14 2011 and served upon the Defendants on November 17, 2011. This Notice of Removal
15 is being filed within the thirty (30) day time period required by 28 U.S.C. §1446(b).
16

17 B. GROUND FOR REMOVAL

18 The present suit is an action over which this Court has original jurisdiction
19 pursuant to 28 U.S.C. § 1331 and may be removed to this Court by Defendant pursuant
20 to the provisions of 28 U.S.C. § 1441(b), as it is a civil action founded on a claim or right
21 arising under the laws of the United States. Removal is proper because Plaintiff's
22 claims present a federal question. 28 U.S.C. §§ 1331, 1441(b). In his Petition, Plaintiff
23 seeks damages for Defendants' alleged violations of the Federal Fair Credit Reporting
24 Act, 15 U.S.C. § 1681 *et seq.*. Moreover, any future claims based on state law may be
25 adjudicated by this Court pursuant to 28 U.S.C. § 1367.
26

27 ///
28

1 C. COMPLIANCE WITH PROCEDURAL REQUIREMENTS

2 3. Pursuant to 28 U.S.C. § 1441(a), venue of the removal action is proper in
3 this Court because it is in the district and division embracing the place where the state
4 court action is pending.

5 4. In accordance with 28 U.S.C. § 1446(a), all executed process, pleadings
6 asserting causes of action, and orders served upon the Defendant Trans Union in the
7 State Court Action are attached hereto as Exhibit "A".

8 5. Pursuant to 28 U.S.C. § 1446(b), this Notice is being filed with this Court
9 within thirty (30) days after the first Defendant received a copy of Plaintiffs' pleading
10 setting forth the claims for relief upon which Plaintiff's action is based.

11 6. Promptly after the filing of this Notice of Removal, Trans Union shall give
12 written notice of the removal to the Plaintiffs and will file a copy of this Notice of
13 Removal with the Clerk of the District Court for Clark County, Nevada, as required by 28
14 U.S.C. § 1446(d).

15 7. Trial has not commenced in the Court of Common Pleas for the District
16 Court for Clark County, Nevada, under Case No. A-11-651038-C.

17 8. All Defendants, who have been served upon the date of filing of this Notice
18 of Removal and remain parties to this litigation, consent to the removal of this case.
19 Consents in the Removal from R.C. Wiley Home Furnishings, Richland Holdings, Inc.
20 dba Acctcorp; Equifax Inc. are attached hereto as Exhibit "B". By filing this Notice of
21 Removal, Trans Union consents to the removal of this case.

22 ///

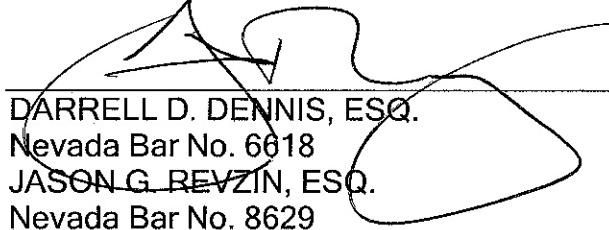
23 ///

24 ///

1 WHEREFORE, PREMISES CONSIDERED, Trans Union LLC, hereby gives
2 notice that this action is removed to this the United States District Court for the District of
3 Nevada, Las Vegas Division, and requests that it receive such other and further relief to
4 which it may show itself justly entitled at law or in equity.

5 DATED this 22nd day of November, 2011.

6 LEWIS BRISBOIS BISGAARD & SMITH LLP

7 
8 DARRELL D. DENNIS, ESQ.

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16 E-Mail: dennis@lbbslaw.com

17 E-Mail: revzin@lbbslaw.com

18 *Counsel for Defendant Trans Union LLC*

1 CERTIFICATE OF SERVICE

2 This is to certify that on the 22nd of November, 2011, I filed DEFENDANT TRANS
3 UNION LLC'S NOTICE OF REMOVAL with the Clerk of the Court using the CM/ECF
4 system which will send notification of such filing to the following counsel, and I hereby
5 certify that I have mailed by United States Postal Service the document to the following
6 non-CM/ECF participants:

7 Roberta Ohlinger-Johnson, Esq.
8 HARRIS, YUG & OHLINGER
9 1489 W. Warm Springs Road, Suite #110
Henderson, NV 89014
10 Telephone: (702) 966.8270
Fax: (866) 592.8826
11 *Counsel for Plaintiffs*

12 
13 An Employee of
14 LEWIS BRISBOIS BISGAARD & SMITH LLP

EXHIBIT "A"

1 SUMM

2 **HARRIS, YUG & OHLINGER**

3 ELLIOTT D. YUG, ESQ.

4 Nevada Bar #5172

5 ROBERTA OHLINGER-JOHNSON, ESQ.

6 Nevada Bar #10946

7 1489 W. Warm Springs Road, Ste #110

8 Henderson, NV 89014

9 702.966.8270 Telephone

10 866.592.8806 Facsimile

11 efile@HYandOAttorneys.com

12 Attorneys for Plaintiff

13 MARIA DIAZ and OMAR DIAZ,

14 Plaintiff(s)

15 vs.

16 R.C. WILLEY HOME FURNISHINGS, a

17 Corporation, RICHLAND HOLDINGS, Inc., a

18 Corporation dba ACCTCORP; EQUIFAX INC,

19 a Corporation, and TRANS UNION LLC, a

20 Corporation

21 CASE NO.: A 11-651038-C

22 DEPT. NO.: XXVII

23 EXEMPT NOT EXEMPT FROM

24 ADR pursuant to NAR 3A - Requests

25 Equitable Relief

26 Defendant(s)

19 SUMMONS - CIVIL

20 AS TO TRANS UNION LLC

21
22 **NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU**
23 **WITHOUT YOUR BEING HEARD ULESS YOU RESPOND WITHIN 20 DAYS. READ**
24 **THE INFORMATION BELOW.**

25
26 **TO THE DEFENDANTS(S):** A civil Complaint has been filed by the Plaintiff(s) against you
27 for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you, exclusive of the day of service, you must do the following:
 - a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.
 - b. Serve a copy of your response upon the attorney whose name and address is shown below.
 2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.
 3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
 4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

Submitted by:

STEVEN D. GRIERSON
CLERK OF COURT

By: JOSEFINA SAN JUAN *SURT SEAL* Date

Deputy Clerk

Date _____

HARRIS, YUG & OHLINGER
ROBERTA OHLINGER-
JOHNSON, ESQ.
Nevada Bar #10946
ELLIOTT D. YUG, ESQ.
Nevada Bar #5172

Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155

AFFIDAVIT OF SERVICE

_____, being duly sworn, says: That at all times herein affiant was and is over 18 years of age, not a party to nor interested in the proceeding in which this affidavit is made. That affiant received _____ copy(ies) of the Summons and Complaint, _____ on the _____ day of _____, 2011 and served the same on the _____ day of _____, 2011 by:

(Affiant must complete the appropriate paragraph)

1. Delivering and leaving a copy with the Defendant _____ at (state address) _____.
 2. Serving the Defendant _____ by personally delivering and leaving a copy with _____, a person of suitable age and discretion residing at the Defendant's usual place of abode located at (state address) _____.

[Use paragraph 3 for service upon agent, completing (a) or (b)]

3. Serving the Defendant _____ by personally delivering and leaving a copy at (state address)

- a. With _____ as _____, an agent lawfully designated by statute to accept service of process;
 - b. With _____, pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident agent as shown on the current certificate of designation filed with the Secretary of State.

4. Personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope, postage prepaid (Check appropriate method):

- Ordinary mail
- Certified mail, return receipt requested
- Registered mail, return receipt requested

Addressed to the Defendant _____ at Defendant's last known address
which is (state address)

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

EXECUTED this ____ day of _____, 2011.

Signature of person making service

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11/02/2011 04:45:51 PM

1 COMP
2 **HARRIS, YUG & OHLINGER**
3 ROBERTA OHLINGER-JOHNSON, ESQ.
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Attorneys for Plaintiff(s)

Adam T. Schinner
CLERK OF THE COURT

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 MARIA DIAZ and OMAR DIAZ, } A- 11- 651038- C
11 Plaintiff(s) } CASE NO.:
12 vs. } XXVI I
13 R.C. WILLEY HOME FURNISHINGS, a } DEPT. NO.:
14 Corporation, RICHLAND HOLDINGS, Inc., a } EXEMPT NOT EXEMPT FROM
15 Corporation dba ACCTCORP; EQUIFAX INC, } ADR pursuant to NAR 3A - Requests
16 a Corporation, and TRANS UNION LLC, a } Equitable Relief
17 Corporation }

18 Defendant(s)

20 COMPLAINT

22 COMES NOW, Plaintiff(s), through their attorneys of record, Roberta Ohlinger and Elliott Yug
23 of HARRIS YUG AND OHLINGER, and complain and allege as follows:

25 STATEMENT OF THE PARTIES

26 1. Plaintiffs MARIA DIAZ, formerly MARIA PLOTKIN, and OMAR DIAZ are consumers
27 within the meaning of the Fair Credit Reporting Act, henceforth FCRA, 15 USC § 1681a.

2. Defendant R.C. WILLEY HOME FURNISHINGS, hereinafter RC WILLEY, is a retailer of furniture, who provides consumer credit for purchase of their products, and is a *furnisher of information* to consumer reporting agencies pursuant to the FCRA.
 3. Defendant RICHLAND HOLDINGS, INC. dba Acctcorp of Southern Nevada, hereinafter RICHLAND, is a collections agency and a *furnisher of information* to consumer reporting agencies within the ambit of the FCRA.
 4. Defendants EQUIFAX, INC, hereinafter EQUIFAX, and TRANS UNION LLC, hereinafter TRANSUNION, are agencies which compile information on credit worthiness and provides *consumer reports* as defined in the FCRA, 15 USC § 1681a.

JURISDICTION

- 13 5. Plaintiff(s) repeat and reallege all allegations above.
14
15 6. Plaintiffs at all times were and are residents of the County of Clark, State of Nevada.
16 7. Defendant R.C. WILLEY HOME FURNISHINGS is a foreign corporation which does
17 business in Clark County, Nevada, and this Court has jurisdiction.
18 8. The underlying contracts with R.C. WILLEY were entered into in the County of Clark,
19 State of Nevada, and this court has jurisdiction.
20 9. Upon information and belief, Defendant RICHLAND HOLDINGS, INC. is a corporation
21 doing business as Acctcorp of Southern Nevada in the County of Clark, State of Nevada,
22 and this court has jurisdiction.
23 10. Defendant EQUIFAX is a Corporation doing business in Nevada via the internet, and this
24 court has jurisdiction.
25 11. Defendant TRANS UNION, LLC is a foreign Corporation doing business in Nevada via
26 the internet, and this court has jurisdiction.
27 12. The acts and omissions complained of herein were committed in the County of Clark,
28 State of Nevada, and this court has jurisdiction.

1
2 FIRST CLAIM FOR RELIEF
3

4 (Violation of the Fair Credit Reporting Act, 15 USC §1681 *et. seq.*)
5

- 6 13. Plaintiff(s) repeat and reallege all allegations above.
7
8 14. In February 2005, Lonny Plotkin and MARIA DIAZ, then MARIA PLOTKIN,
9 hereinafter MARIA, applied for consumer credit with R.C. WILLEY. They were
10 approved for a joint, revolving credit account with the numbers 2117992200.
11
12 15. In 2006, MARIA and Lonny divorced. Pursuant to the decree Mr. Plotkin was to assume
13 responsibility for the R.C. WILLEY obligation, which he did. The joint account was
14 closed, and transferred to a new account which was supposed to be Mr. Plotkin's sole
15 account.
16
17 16. Upon information and belief, the Account was transferred to a new account, which
18 should have been Mr. Plotkin's separate account, but was at least negligently designated
19 a joint account.
20
21 17. Upon information and belief, Mr. Plotkin began to have delinquencies sometime in 2007.
22
23 18. This negative tradeline was reported by RC WILLEY and RICHLAND, as their agent, to
24 TRANS UNION, EQUIFAX, and Experian in 2008 as a collections history against
25 MARIA.
26
27 19. On or about August 2009, MARIA became aware of the negative report because of an
28 adverse action on a home loan. MARIA contacted ACCTCORP, and requested a
 correction. At that time, MARIA had excellent credit except for this single tradeline.
 20. On or about August 2010, MARIA became aware of the continuing negative tradeline
 because of an adverse action on an auto loan.

- 1 21. In August 2010, MARIA again disputed this information with RICHLAND HOLDINGS
2 dba ACCTCORP, who indicated the report was in error and agreed to delete the tradeline
3 on her social security number.
- 4 22. At that time, MARIA sent dispute letters to all three national credit reporting agencies,
5 Defendants TRANSUNION, EQUIFAX, and Experian. She included the correspondence
6 from ACCTCORP indicating the report was in error, and TRANSUNION replied that the
7 *dispute had been investigated and found to be invalid.*
- 8 23. In April of 2011, MARIA disputed this tradeline directly with RC WILLEY, who agreed
9 to delete the tradeline on her social security number.
- 10 24. As of the date of drafting, OCTOBER 24, 2011, the negative tradeline continues to
11 appear on her credit reports with both TRANSUNION and EQUIFAX.
- 12 25. MARIA and OMAR DIAZ have been damaged in adverse actions by lenders for this
13 negative collections history, causing the Plaintiff's to suffer an increased interest rate in
14 their automobile and home loans, including a denial of credit for which they otherwise
15 qualified, and now MARIA and OMAR DIAZ are threatened with the loss of federal
16 employment as a direct result of the continued mis-reporting.
- 17 26. That the Defendants have collectively failed to maintain reasonable procedures for the
18 investigation of credit disputes; that the Defendants have failed to investigate a dispute;
19 and that the Defendants have collectively failed to delete an erroneous tradeline.
- 20 27. That each and every one of these Defendants have acted if not intentionally, then at least
21 with reckless disregard for the rights of the individual and their duties pursuant to statute,
22 thereby justifying punitive damages sufficient to deter like conduct.
- 23 ///
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SECOND CLAIM FOR RELIEF

(Negligent Undertaking)

- 4 28. Plaintiff(s) repeat and reallege all allegations above.

5 29. Each and every one of the Defendants owes a duty to the Defendant that if they are going

6 to report consumer credit information, they must provide accurate information.

7 30. Each and everyone of these Defendants has breached that duty, and callously injured and

8 endangered the economic and employment welfare of the Plaintiffs in the midst of the

9 highest unemployment and general economic downturn in the modern century.

10 31. Each and everyone of these Defendants has acted with callous disregard for the rights of

11 Plaintiffs and their duties pursuant to statute, so as to justify an award of punitive

12 damages sufficient to deter like conduct.

13

THIRD CLAIM FOR RELIEF AS TO RICHLAND HOLDINGS & ACCTCORP

(Violation of 15 USC § 1692 *et seq.*, Fair Debt Collections Practices Act)

- 17 32. Plaintiff(s) repeat and reallege all allegations above.

18 33. That RICHLAND and ACCTCORP are debt collectors subject to the Fair Debt

19 Collections Practices Act, 15 USC 1692 et. seq., henceforth FDCPA.

20 34. That these Defendants have engaged in multiple violations of the FDCPA, in failing to

21 report that a debt is disputed and misrepresenting the legal characterization of the debt.

22 35. That these errors have been persistent and ongoing.

23

25 | WHEREFORE Plaintiffs pray for Judgment as follows:

1. Temporary and permanent injunction against the Defendants from continued reporting of the tradeline against Ms. Diaz;

- 1 2. Damages in excess of \$10,000 in an amount to be proven at trial;
- 2 3. Statutory damages;
- 3 4. Punitive damages pursuant to statute;
- 4 5. A reasonable attorney fees and costs of suit;
- 5 6. And other such relief as the Court should find just and proper in the
6 circumstances.

7 Respectfully submitted this 24th day of October, 2011.

8
9 By: /s/ *R. Ohlinger*
10 HARRIS, YUG & OHLINGER
11 ROBERTA OHLINGER-JOHNSON
12 Nevada Bar #10946
13 Attorneys for Plaintiff(s)

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CIVIL COVER SHEET

Clark County, Nevada

Case No.

(Assigned by Clerk's Office)

A- 11- 651038- C
XXVI I**I. Party Information**

Plaintiff(s) (name/address/phone): MARIA DIAZ and OMAR DIAZ

Defendant(s) (name/address/phone):

R.C. Willey Home Furnishings; 20 North Stephanie Street,
Henderson, NV 89119;Attorney (name/address/phone):
HARRIS, YUG & OHLINGER (702) 966-8270
1489 W. Warm Springs Road, Suite #110
Henderson, NV 89014Richland Holdings, Inc. dba ACCTCORP; 8985 South Eastern,
Suite #160, Las Vegas, NV 89123EQUIFAX INC.; 2215-B Renaissance Drive, Las Vegas, NV
89119Trans Union LLC; 2215-B Renaissance Drive, Las Vegas, NV
89119

Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate) Arbitration Requested

Civil Cases

Real Property	Torts
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	Negligence <input type="checkbox"/> Negligence - Auto <input type="checkbox"/> Negligence - Medical/Dental <input type="checkbox"/> Negligence - Premises Liability <input type="checkbox"/> Negligence - Other <input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input checked="" type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input checked="" type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition

Probate

Other Civil Filing Types

Estimated Estate Value: _____	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acc/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment - Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters
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III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

NRS Chapters 78-88
 Commodities (NRS 90)
 Securities (NRS 90)

Investments (NRS 104 Art. 8)
 Deceptive Trade Practices (NRS 598)
 Trademarks (NRS 608A)

Enhanced Case Mgmt/Business
 Other Business Court Matters

11/2/2011

Date

Signature of initiating party or representative

See other side for family-related case filings.

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Attorneys for Plaintiff(s)

CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

MARIA DIAZ and OMAR DIAZ,)
Plaintiff(s)) CASE NO.: A 11-651038-C
vs.)
R.C. WILLEY HOME FURNISHINGS, a) DEPT. NO.: XXVII
Corporation, RICHLAND HOLDINGS, Inc., a) EXEMPT NOT EXEMPT FROM
Corporation dba ACCTICORP; EQUIFAX INC,) ADR pursuant to NAR 3A - Requests
a Corporation, and TRANS UNION LLC, a) Equitable Relief
Corporation)
Defendant(s)) NOTICE AND APPLICATION FOR
PRELIMINARY INJUNCTIVE RELIEF

NOTICE OF MOTION

YOU AND EACH OF YOU will take notice that the above named Plaintiff will bring its
Application for Preliminary Injunctive Relief on for hearing before Department XVII of the
above-caption Court on the 16 day of Dec, 2011 at the hour of 10 : 00 am / pm or as soon
thereafter as Counsel may be heard.

APPLICATION FOR PRELIMINARY INJUNCTIVE RELIEF

2 COMES NOW, Plaintiff(s), by and through their attorneys of record, Roberta Ohlinger-Johnson
3 of HARRIS YUG AND OHLINGER, and hereby apply to the Court for a preliminary injunction
4 pursuant to NRS 33.010 and NRCP 65 requiring the Defendants to remove the collections
5 tradeline for RC WILLEY Account number 2117992200 / D33944N2 within five (5) days of
6 written notice of entry of the Order, with a waiver of the bond requirement pursuant to NRCP
7 65(c), and sanctions per Defendant per day for noncompliance.
8

BACKGROUND

This case arises under the Fair Credit Reporting Act, 15 USC § 1681 *et. seq.* and the Fair Debt Collection Practices Act, 15 USC § 1692 *et. seq.* and common-law Negligent Undertaking for failure to accurately report an adverse collections account. Plaintiff MARIA DIAZ, formerly Maria Olivarez, opened an account with RC WILLEY with her ex-husband in 2005. In 2006, the parties divorced, and Mr. Plotkin transferred the joint account to a separate account pursuant to the divorce decree. He became delinquent sometime in 2007. MARIA has been fighting the named Defendants since 2009 for removal of the tradeline, which has now resulted in two adverse interest rates increases, despite her then otherwise stellar credit.

Both furnishers of information have agreed the reporting was inaccurate, and proof is provided along with this application for injunctive relief. Both furnishers have promised to delete the tradeline. Both Defendant credit reporters, TRANSUNION and EQUIFAX, have been notified of the dispute, and the furnishers' admission that it was incorrect. Defying all logic, the collections history are still reported against her to this day, and not even marked as disputed¹ pursuant to the FCRA. The Plaintiffs, MARIA and her husband OMAR DIAZ, now request

¹ Under industry practice, a "dispute" is a "sticky" designation. Once an account is designated as disputed, this designation does not come off or expire unless the tradeline is deleted. 15 USC 1681c.

relief from the Court, as MARIA risks an adverse employment determination for which she is otherwise qualified, and for which damages will be inadequate to remedy.

STANDARD OF REVIEW

NRS 33.010 provides: "An injunction may be granted in the following cases:

1. When it shall appear by the complaint that the plaintiff is entitled to the relief demanded, and such relief or any part thereof consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually.
 2. When it shall appear, by the complaint or affidavit that the commission or continuance of some act, during the litigation, would produce great or irreparable injury to the plaintiff.
 3. (omitted)

A preliminary injunction is available upon a showing that the party seeking it enjoys a reasonable probability of success on the merits and that the defendant's conduct, if continued, will result in irreparable harm which may not be fully compensated by legal damages. *Pcikett v. Comanche Construction Co.* 108 Nev. 422, 836 P.2d 42 (1992), *Dixon v. Thatcher*, 103 Nev. 414, 742 P.2d 1029 (1987). Upon review, the decision of the trial Court will not be overturned except upon an abuse of discretion. *Ottenheimer v. Real Estate Division*, 91 Nev. 338, 535 P. 2d 1025 (1975).

SUBSTANTIVE LAW

The FCRA is a remedial statute requiring credit reporters to adopt reasonable procedures to investigate disputes in credit reporting to insure fairness and that consumer credit reporting

1 agencies exercise "their grave responsibilities with fairness, impartiality, and a respect for the
2 consumer's right to privacy." 15 USC §1681. Under Section §1681c, a credit reporting agency
3 is required to indicate when information furnished to the agency is in dispute. This requirement
4 is "sticky," in that the law does not allow for removal of the dispute. A reinvestigation
5 procedure of information contained in credit reports is required, which includes notice to the
6 furnisher of information, as well as the requirement that the reporting agency consider
7 information submitted by the consumer. 15 USC 1681i.

8
9 The furnishers of information also have a separate duty to provide accurate information.
10 See §1681s-2 at subsection (a)(1)(A), providing that "A person shall not furnish any information
11 relating to a consumer to any consumer reporting agency if the person knows or has reasonable
12 cause to believe that the information is inaccurate," and (B) "A person shall not furnish
13 information relating to a consumer to any consumer reporting agency if (i) the person has been
14 notified by the consumer, at the address specified by the person for such notices, that specific
15 information is inaccurate; and (ii) the information is, in fact, accurate."

16
17 Here, the Affidavit and accompanying exhibits, demonstrate that MARIA has disputed
18 this debt since 2009, and that despite the concessions by the furnishers of the information, RC
19 WILLEY and RICHLAND dba ACCTCORP, that the information is incorrect, and their repeated
20 promises to fix it – including the draft removal of the tradeline provided by ACCTCORP, the
21 information is still not correct. Indeed, it is not even marked as disputed, which is a strict
22 liability violation of the Fair Credit Reporting Act as to all the Defendants, and the Fair Debt
23 Collections Act by RICHLAND.

24
25 While before the prior harm of adverse interest rates is compensable by the Defendants.
26 Now, the Plaintiff is applying for federal-based employment as a contractor to the Federal
27
28

1 Bureau of Intelligence and has already been asked to explain this adverse item in a background
2 check. If MARIA does not get the position, these Defendants will be the first to claim that
3 Plaintiff's damages are speculative. She deserves a fair shot at the position untainted by the
4 conduct of the Defendants. As this conduct complained of has been continuing since 2009,
5 they collectively have had at least three opportunities to get it right. They are not likely to do so
6 now of their own volition.
7

8 The Defendants' risk of harm in performing an affirmative injunction is negligible if not
9 non-existent, the risk of harm to MARIA and OMAR is high and imminent as they have already
10 been notified by their employer that this is a problem. As there is no risk of harm to the
11 Defendants, even in the event that Plaintiffs were unable to prevail on the motion, Plaintiffs
12 respectfully requests the Court to either a) waive the security requirement of NRCP 65, or b) to
13 set the security amount at a negligent amount so as to not impede their access to justice.
14

15 CONCLUSION

16 WHEREFORE, Plaintiff respectfully requests the Court to grant preliminary injunctive relief,
17 ordering requiring the Defendants to remove the collections tradeline for RC WILLEY Account
18 number 2117992200 / D33944N2 within five (5) days of written notice of entry of the Order,
19 with a waiver of the bond requirement pursuant to NRCP 65(c), and sanctions per Defendant per
20 day for noncompliance.
21

22
23 Respectfully submitted this 4th Day of November, 2011

24
25 /s/ R. Ohlinger-J.
26 ROBERTA OHLINGER-JOHNSON, ESQ.
27 Nevada Bar #10946
1489 W. Warm Springs Road, Ste #110
Henderson, NV 89014
702.966.8270 Telephone
866.592.8806 Facsimile
efile@HYandOAttorneys.com
28 Attorneys for Plaintiff(s)

Diaz Family

702 568 7767

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AFFIDAVIT FOR RELIEF

1 COUNTY OF CLARK)
 2) ss.
 3 STATE OF NEVADA)
 4

- 5 1. My name is MARIA DIAZ, formerly MARIA OLIVAREZ, and I am the principal
 6 Plaintiff in this matter. I testify based upon personal knowledge except where indicated
 7 upon information and belief. Furthermore, the attached exhibits are all true and correct
 8 copies of the originals I have in my possession provided to me by these agencies in the
 9 usual course of business.
- 10 2. Co-Plaintiff OMAR DIAZ is my current husband.
- 11 3. I have read the contents of this Application for Preliminary Injunctive relief, and the
 12 factual contents thereof are true and correct.
- 13 4. In 2005, my ex-husband Lonny Plotkin and I applied for consumer credit with R.C.
 14 WILLEY. We had a joint, revolving credit account with the numbers 2117992200.
- 15 5. In 2006, we divorced. Pursuant to the decree Lonny was to assume responsibility for the
 16 R.C. WILLEY obligation.
- 17 6. Upon information and belief, the new account, which should have been Mr. Plotkin's
 18 separate account, but was at least negligently designated a joint account.
- 19 7. Apparently Mr. Plotkin began to have delinquencies sometime in 2007.
- 20 8. This negative tradeline was reported by RC WILLEY and ACCTCORP / RICHLAND,
 21 as their agent, to TRANS UNION, EQUIFAX, and Experian in 2008 as a collections
 22 history against me.
- 23 9. On or about August 2009, I became aware of the negative report because of an adverse
 24 action on a home loan. I contacted RICHLAND dba ACCTCORP, and requested a
 25 correction. At that time, I had excellent credit except for this single tradeline and
 26 ACCTCORP agreed to remove the tradeline. See Exhibit 1, fax to RICHLAND dba
 27 ACCTCORP, and reply draft deletion of the tradeline dated 8/13/2009.
- 28 10. On or about August 2010, I became aware of the continuing negative tradeline because of
 an adverse action on an auto loan.

DIAZ / APP for PRELIMINARY INJUNCTION -6-

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Diaz Family

702 5687767

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- 1 11. In August 2010, I again disputed this information with RICHLAND HOLDINGS dba
2 ACCTCORP, who indicated the report was in error and agreed to delete the tradeline on
3 my social security number. See Exhibit 2, Communication from ACCTCORP.
4 12. At that time, I sent dispute letters to all three national credit reporting agencies,
5 Defendants TRANSUNION, EQUIFAX, and Experian. She included the correspondence
6 from ACCTCORP indicating the report was in error, and TRANSUNION replied that the
7 *dispute had been investigated and found to be invalid*. See Exhibit 3, Communication to
8 TRANSUNION, and Exhibit 4, Communication from TRANSUNION.
9 13. In April of 2011, I disputed this tradeline directly with RC WILLEY, who agreed to
10 delete the tradeline on my social security number. See Exhibit 5, Letter from RC
11 WILLEY dated May 4, 2011.
12 14. The negative tradeline continues to appear on my credit reports with both
13 TRANSUNION and EQUIFAX. See Exhibits 6 and 7.
14 15. I am applying for Federal-based employment as a contractor to the Federal Bureau of
15 Investigation, which has already contacted me that the collections action may preclude
16 employment.
17 16. As I have exhausted every conceivable avenue of correction multiple times, I now seek
18 relief from the Court.

17 I SWEAR UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT.

MARIA DIAZ, Plaintiff

DIAZ / APP for PRELIMINARY INJUNCTION -7-

1 INDEX OF EXHIBITS

2 **AFFIDAVIT OF MARIA DIAZ**

- 3
- 4 Exhibit 1. Fax to ACCTCORP dated 8/11/2009 & Return draft to delete tradeline, dated
5 8/13/2009
- 6 Exhibit 2. Email from ACCTCORP, with draft to delete tradeline attached
- 7
- 8 Exhibit 3. Dispute Letter to TRANSUNION August 23, 2010
- 9 Exhibit 4. Reply from TRANSUNION September 1, 2010
- 10 Exhibit 5. Letter from RC WILLEY May 4, 2011
- 11 Exhibit 6. Current Transunion Credit Report (showing collections history only)
- 12 Exhibit 7. Current Equisax Consumer Credit Report (showing collections history only)
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
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- 23
- 24
- 25
- 26
- 27
- 28

EXHIBIT 1

Minelab USA, Inc.
871 Grier Drive,
Suite B 1
Las Vegas, NV 89119
(702) 891-8809
Fax (702) 891-8810



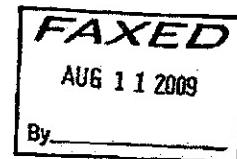
To: Acct Corp
At: LISA
Fax: 702-247-9802
Subject: Copy of Divorce decree

From: Maria G. Diaz-Aguilar
Pages: 11 including cover
Date: 08-11-2009

Hi Lisa, as per your request, here is a copy of my divorce decree.
You can reach me at 702-588-1314 at any time.

Thanks so much for your assistance

A handwritten signature in cursive ink, appearing to read "Maria G. Diaz-Aguilar".



FAX ACKNOWLEDGEMENT

Please acknowledge receipt of the above items by completing and faxing this sheet to the sender.

I acknowledge receipt of pages above.

.....
Signature

.....
Date

Universal Data Form							
AUD Correction Indicator: Update <input type="checkbox"/> Delete <input checked="" type="checkbox"/> Delete due to fraud <input type="checkbox"/>							
Subscriber Name: ACCITCORP OF SOUTHERN NEVADA Subscriber Address: 4835 S DURANGO, STE#77, LAS VEGAS, NV, 89113				Equifax SC: 154Y002163 Experian SC: 1887420 TransUnion SC: 2169650 TUSC: 2SF1001			
Consumer Information							
Last Name: OLIVAREZ	First Name: MARIA	Middle Name:	Gen:	SSN:	DOB:		
Current Address: 21 BISHOPSGATE TERRACE				City: HENDERSON	State: NV	Zip+4: 89074	
Previous Last Name:	Previous First Name:	Previous Middle Name:	Previous Gen:				
Previous Address:				City:	State:	Zip+4:	
Consumer Information Indicator: EDDA: 2		Phone:					
Employment Information							
Employee Name:		Occupation:					
Current Address:				City:	State:	Zip+4:	
Associate Consumer Information							
Last Name:	First Name:	Middle Name:	Gen:	SSN:	DOB:		
Current Address:				City:	State:	Zip+4:	
Consumer Information Indicator: EDDA:	Phone:						
Last Name:	First Name:	Middle Name:	Gen:	SSN:	DOB:		
Current Address:				City:	State:	Zip+4:	
Consumer Information Indicator: EDDA:	Phone:						
Account Information							
Account Number: 10399402	Date Opened: 06-13-2009	Current Delinquent Days: 0	Current Delinquent Type: 0	Credit Limit: 50	High Credit: 50	Schedule Monthly: SD	Special Comment Code:
Term Due/Freq: /	Date Closed: 06-13-2009	Deferred Payment Status: DA	Account Type: 48	Payment Rating:	Date of Account Information: 06-13-2009	FCRA 1st Date of Delinquency: 12-16-2007	Original Charge-off Amount: 50
Original Creditor Name: KC WILLEY FURNISHINGS		Mortgage Agency Identifier:			Sec. Marketing Agency ID Account #:		Specialized Payment Indicator:
Purchased Portfolio or Sold Name:		Deferred Payment Start Date:			Balloon Payment Due Date:		Balloon Payment Amount:
Mortgage ID #:					AUD Control #: 47421722		
Activity History							
<p>Authorized Signature: AILEEN ESPERO Date: 06-13-2009</p> <p>Tell: (702) 240-3007</p> <p>When you sign this form, you certify that your computer and/or manual records have been adjusted to reflect any changes made.</p>							

EXHIBIT 2

Gaby Olivarez

From: DAVID KAPLAN [D.KAPLAN@ACSNLV.COM]
Sent: Monday, August 23, 2010 2:21 PM
To: Gaby Olivarez
Subject: DELETION ON NAME 2 ONLY.pdf
Attachments: DELETION ON NAME 2 ONLY.pdf

ACCTCORP OF SOUTHERN NEVADA
4955 S. Durango Dr. Suite #177....Las Vegas, NV 89113
Phone (702) 249-3007..Fax: (702) 247-9802.
E-Mail: D.KAPLAN@ACSNLV.COM

per your request

Sincerely,

David Kaplan

PRIVACY POLICY: We do not share "Non Public Information" with any "Third Parties or Entities". All information provided shall be kept confidential and we shall treat same as privileged.
THIS IS AN ATTEMPT TO COLLECT A DEBT FROM A DEBT COLLECTION AGENCY; ANY INFORMATION OBTAINED WILL BE USED ONLY FOR THAT PURPOSE

Universal Data Form							
ADD Correction Indicator: Update <input type="checkbox"/> Delete <input checked="" type="checkbox"/> Delinquent to fraud <input type="checkbox"/>							
Subscriber Name: ACCTCOP OF SOUTHERN NEVADA Subscriber Address: 4355 S DURANGO, STE 177, LAS VEGAS, NV 89118				Equifax SC: 164YCC02165 Experian SC: 1987420 Innova SC: 2109450 TU SC: 22F1001			
Consumer Information							
Last Name	First Name	Middle Name	Gen.	SSN	DOB		
OLIVAREZ	MARIA						
Current Address				City	State	Zip+4	
25 BISHOPSQATE TERRACE				HENDERSON	NV	89074	
Employee Last Name	Previous First Name			Previous Middle Name	Previous Gen.		
Previous Address				City	State	Zip+4	
Consumer Information Indicator:	ECOA: 2			Phone:			
Employment Information							
Employer Name:							
Current Address				City	State	Zip+4	
Second Used Consumer Information							
Last Name	First Name	Middle Name	Gen.	SSN	DOB		
Current Address				City	State	Zip+4	
Consumer Information Indicator:	ECOA:			Phone:			
Last Name	First Name	Middle Name	Gen.	SSN	DOB		
Current Address				City	State	Zip+4	
Consumer Information Indicator:	ECOA:			Phone:			
Account Information							
Account Number	Date Opened	Current Status	Term	Credit Limit	High Credit	Schedule Monthly	Special Comment Code
DC394DN2	06-13-2009	00	0	30	\$0	\$0	
Term: Due/Prcd.	Date Closed	Actual Payment	Deferred Payment Start Date	Payment Rating	Date of Account Information	PCRA 1st Day of Delinquency	Original Charge-off Amount
/	06-13-2009	DA	43		06-13-2009	12-15-2007	\$0
Original Creditor Name: RC WILLEY FURNISHINGS							
Purchased Portfolio or Sold Name:							
Marginage Id #				ALD Control #	47421722		
Account History							
Authorized Signature: ALEEN ESPERO Date: 06-03-2009							
Tel: (702) 240-3007							
When you sign this form, you certify that your computer and/or manual records have been adjusted to reflect any changes made.							

EXHIBIT 3

August 23, 2010

I SENT SAME LETTER
TO THE 3 CREDIT BUREAU
OFFICES!

Transunion credit Bureau
PO Box 2000
Chester, PA 19022

File # 226182144

Name: Maria Gabriela Diaz-Aguilar
Address: 400 Mackay Street. Henderson, NV 89015
SSN : XXX-XX-2728
File # 226182144

Reason: RC Willeys made a big mistake on my credit history. My ex-husband was liable for an account and they reported the account to a collection agency under my social security on Dec 2006, which I divorced him on Jul 2006 and on the divorced decree he is 100% liable for the account. RC Willeys reported to the collection agency the mistake and Account Corp of Southern Nevada submitted a deletion of this account from my credit history. Please update my records immediately and also I need it in writing that this account has been deleted from my history.

I am sending you copy of the email I received from the collection agency from David Kaplan.

You can contact me at all times at 702-588-1314

Or at the following emails

ltfuchs@hotmail.com

chama74@sprint.blackberry.net

Sincerely,

Maria Gabriela Diaz-Aguilar

Gaby Olivarez

From: DAVID KAPLAN [D.KAPLAN@ACSNLV.COM]
Sent: Monday, August 23, 2010 2:21 PM
To: Gaby Olivarez
Subject: DELETION ON NAME 2 ONLY.pdf
Attachments: DELETION ON NAME 2 ONLY.pdf

ACCTCORP OF SOUTHERN NEVADA
4955 S. Durango Dr. Suite #177...Las Vegas, NV 89113
Phone (702) 240-3007..Fax (702) 247-9802
E-Mail: D.KAPLAN@ACSNLV.COM

per your request

Sincerely,

David Kaplan

PRIVACY POLICY: We do not share "Non Public Information" with any "Third Parties or Entities". All information provided shall be kept confidential and we shall treat same as privileged.
THIS IS AN ATTEMPT TO COLLECT A DEBT FROM A DEBT COLLECTION AGENCY; ANY INFORMATION OBTAINED WILL BE USED ONLY FOR THAT PURPOSE

Universal Data Form							
AUD Conversion Indicator: Update <input type="checkbox"/> Delete <input checked="" type="checkbox"/> Delete due to fraud <input type="checkbox"/>							
Subscriber Name: ACCITCORP OF SOUTHERN NEVADA Subscriber Address: 4935 S DURANGO, SUITE 77, LAS VEGAS, NV, 89113				Equifax SC: 164VCM02165 Experian SC: 1987420 Imovis SC: 2109650 TUSC: 22F1001			
Consumer Information							
Last Name	Fist Name	Middle Name	Gen.	SSN	DOB		
OLIVAREZ	MARIA						
Current Address 25 BISHOPSGATE TERRACE				City	State	Zip+4	
				RENDERSON	NV	89074	
Previous Last Name	Previous First Name	Previous Middle Name	Previous Gen.				
Previous Address				City	State	Zip+4	
Consumer Information Indicator:	ECCOA: 2	Phone:					
Employment Information							
Employer Name:							
Current Address				Occupation	City	State	Zip+4
Associated Consumer Information							
Last Name	Fist Name	Middle Name	Gen.	SSN	DOB		
Current Address				City	State	Zip+4	
Consumer Information Indicator:	ECCOA:	Phone:					
Account Information							
Account Number	Date Opened	Current Balance	Current Due Date	Credit Limit	High Credit	Schedule Monthly	Special Comments Code
D33940N2	06-13-2009	\$0	0	\$0	\$0	\$0	
Term Dte/Freq.	Date Closed	Access Payment	Deferred Payment Status	Account Type	Payment Rating	Date of Account Information	FCRA 1st Date of Deficiency
/	08-13-2009	DA	4k			08-13-2009	08-13-2007
Original Creditor Name: RC WILLEY FURNISHINGS							
Purchased Portfolio or Sold Name:							
Mortgage Id #		Deferred Payment Start Date	Balloon Payment Due Date		Balloon Payment Amount		
Account History				AUD Control #	47421722		
Authorized Signature: AILEEN ENPRO		Title: (702) 240-3007					
Date: 08-13-2009							
When you sign this form, you certify that your computer and/or manual records have been adjusted to reflect any changes made.							

U.S. Postal Service
CERTIFIED MAIL... RECEIPT
(Domestic Mail Only: No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	8
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

8/21/10

70 NO
4000 2458 7426

Send To:
Street, Apt. No.,
or PO Box No. PO Box 2000
City, State, Zip Code Chester PA 19022

PS Form 3526, July 2002

EXHIBIT 4

*** 226182146-008 ***
 PO Box 2000
 Chester, PA 19022

09/01/2010



P17T8700201805-0008257-000012694
 MARIA GABRIELA DIAZAGUILAR
 400 MACKAY ST
 HENDERSON, NV 89015

Our investigation of the dispute you recently submitted is now complete. The results are listed below. If an item you disputed is not in the list of results below, it was either not appearing in your credit file or it already reflected the corrected status at the time of investigation.

If our investigation has not resolved your dispute, you may add a 100-word statement to your report. If you provide a consumer statement that contains medical information related to service providers or medical procedures, then you expressly consent to TransUnion including this information in every credit report we issue about you. If you wish to obtain documentation or written verification concerning your accounts, please contact your creditors directly.

If there has been a change to your credit history resulting from our investigation, or if you add a consumer statement, you may request that TransUnion send an updated report to those who received your report within the last two years for employment purposes, or within the last one year for any other purpose.

If interested, you may also request a description of how the investigation was conducted along with the business name, address and telephone number of any company we may have contacted for information. Thank you for helping ensure the accuracy of your credit information.

For frequently asked questions about your credit report, please visit <http://transunion.custhelp.com>.

Investigation Results

ITEM	DESCRIPTION	RESULTS
PERSONAL INFORMATION R.C. WILLEY	# 2117992200	NEW INFORMATION BELOW VERIFIED, NO CHANGE

EXHIBIT 5



Financial Services
P.O. Box 65320
Salt Lake City, Utah 84165-0320
Telephone 801.461.3940
Fax 801.461.3858

May 4, 2011

Maria Gabriela Diaz
400 Mackay St
Henderson NV 89015-5093

Re: RC Willey Account; 2117992200

Credit Bureaus Notified: Equifax, Experian and TransUnion

Dear Customer:

Per your request, and in accordance with The Fair Credit Reporting Act, we have reviewed the reporting of the RC Willey Account to the Credit Bureaus listed above. Due to a change in status or to an error in reporting, we have filed the following correction with the Credit Bureaus:

Deleted Delinquency 9/06

This correction is effective immediately, but please allow 30 days for the correction to appear in your file at the Credit Bureaus. This will allow the Credit Bureaus to fully research the problem to ensure it is cleared up completely and accurately.

We apologize for any inconvenience this may have caused you, and we look forward to being of service to you in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Jo Lynn Lanier".

Jo Lynn Lanier
Credit Bureau Research
801-493-4280

EXHIBIT 6

TransUnion

Page 2 of 13

Adverse Accounts

The following accounts contain information which some creditors may consider to be adverse. Adverse account information may generally be reported for 7 years from the date of the first delinquency, depending on your state of residence. The adverse information in these accounts has been printed in >brackets< or is shaded for your convenience, to help you understand your report. They are not bracketed or shaded this way for creditors.

GMAC MORTGAGE #60251***

PO BOX 4622
WATERLOO, IA 50704-4622
(800) 766-4622

Balance: \$150,351
Date Updated: 09/30/2011
High Balance: \$160,047
Past Due: >\$4,822<
Last Payment: 05/12/2011

Pay Status: >Account 120 Days Past Due
Dates:
Account Type: Mortgage Account
Responsibility: Individual Account
Term: \$1,150 Monthly for 360 months
Date Opened: 10/26/2009

Loan Type: FHA REAL ESTATE MORTGAGE
Remarks: >FORECLOSURE INITIATED<
>Maximum Delinquency of 120 days occurred in 09/2011 for \$4,822<
Estimated month and year that this item will be removed: 05/2018

Late Payments (20 months)	Last 20 months	OK
OK OK OK	00 00 00	avg jnl jln may apr mar feb 22 dec nov oct sep aug jnl jln may apr mar feb 10
1 1 2		

ACCOUNT CORP OF SOUTHERN #D339***

4955 SOUTH DUKANGO
SUITE 117
LAS VEGAS, NV 89113
(702) 240-3007

Balance: \$5,888
Date Verified: 09/02/2008
Original Amount: \$5,611
Original Creditor: R C WILLEY HOME FURNISHINGS

Pay Status: >In Collection<
Account Type: Open Account
Responsibility: Joint Account

Date Placed for Collection: 06/19/2008
Remarks: >PLACED FOR COLLECTION<
Estimated month and year that this item will be removed: 11/2014

ESCALLATE INC #3124***

5200 STONEHAM RD
STE 200
CANTON, OH 44720
(877) 237-7787

Balance: \$0
Date Updated: 12/19/2006
Original Amount: \$74
Original Creditor: MEDICAL-EPMG ST ROSE DOMINICAN HOSP (Medical/Health Care)

Pay Status: >Account Paid in Full; was a Collection<
Account Type: Open Account
Responsibility: Individual Account
Date Closed: 11/17/2006
Date Paid: 11/17/2006

Loan Type: COLLECTION AGENCY/ATTORNEY
Date Placed for Collection: 08/24/2006
Remarks: >PAID COLLECTION<
Estimated month and year that this item will be removed: 11/2012

Satisfactory Accounts

The following accounts are reported with no adverse information.

CAPITAL ONE BANK USA NA #S29115203633***

PO BOX 30281
SALT LAKE CITY, UT 84130
(800) 258-9319

Balance: \$0
Date Updated: 03/23/2009
High Balance: \$836
Credit Limit: \$800
Last Payment: 10/04/2008

Pay Status: Current: Paid or Paying as Agreed
Account Type: Revolving Account
Responsibility: Individual Account
Date Opened: 06/24/2001
Date Closed: 03/02/2009
Date Paid: 10/04/2008

Loan Type: CREDIT CARD
Remarks: ACCOUNT CLOSED BY CONSUMER

Late Payments (48 months)	Last 48 months	OK OK OK OK OK OK OK OK OK OK
OK OK OK	00 00 00	avg jnl jln may apr mar feb 22 dec nov oct sep avg jnl jln may apr mar
0 0 0		

EXHIBIT 7

A collection is an account that has been turned over to a collection agency by one of your creditors because they believe the account has not been paid as agreed.

RICHLAND HOLDINGS, INC DBA [REDACTED]

Agency Address:	Acctcorp Of Southern Nevada 4955 S Durango Dr Las Vegas, NV 891130152 (702) 240-3007
Date Reported:	09/2008
Date Assigned:	06/2008
Creditor Classification:	
Creditor Name:	R C WILLEY HOME FURNISHINGS
Accounts Number:	D339XXXX

Original Amount Owed:	\$5,611
Date of 1 st Delinquency:	12/2007
Balance Date:	09/2008
Balance Owned:	\$5,888
Last Payment Date :	N/A
Status Date:	09/2008
Status:	D - Unpaid
Comments:	N/A ESCALATE, LLC

HARRIS, YUG & OHLINGER
ROBERTA OHLINGER-JOHNSON, ESQ.
Nevada Bar #10946
1489 W. Warm Springs Road, Ste #110
Henderson, NV 89014
702.966.8270 Telephone
866.592.8806 Facsimile
efile@HYandOAttorneys.com
Attorneys for Plaintiff(s)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

MARIA DIAZ and OMAR DIAZ,)
Plaintiff(s)) CASE NO.: A 11-651038-C
vs.)
R.C. WILLEY HOME FURNISHINGS, a) DEPT. NO.: XXVII
Corporation, RICHLAND HOLDINGS, Inc., a) EXEMPT NOT EXEMPT FROM
Corporation dba ACCTCORP; EQUIFAX INC,) ADR pursuant to NAR 3A - Requests
a Corporation, and TRANS UNION LLC, a) Equitable Relief
Corporation)
Defendant(s)) ERRATA: EXHIBITS TO APPLICATION
FOR PRELIMINARY INJUNCTIVE RELIEF

Respectfully submitted this 4th Day of November, 2011

/s/ R. Ohlinger-J.
ROBERTA OHLINGER-JOHNSON, ESQ.
Nevada Bar #10946
1489 W. Warm Springs Road, Ste #110
Henderson, NV 89014
702.966.8270 Telephone
866.592.8806 Facsimile
efile@HYandOAttorneys.com
Attorneys for Plaintiff(s)

Diaz Family

702 568 7767

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AFFIDAVIT FOR RELIEF

1 COUNTY OF CLARK)

2) ss.

3 STATE OF NEVADA)

4

- 5 1. My name is MARIA DIAZ, formerly MARIA OLIVAREZ, and I am the principal
 6 Plaintiff in this matter. I testify based upon personal knowledge except where indicated
 7 upon information and belief. Furthermore, the attached exhibits are all true and correct.
 8 copies of the originals I have in my possession provided to me by these agencies in the
 9 usual course of business.
- 10 2. Co-Plaintiff OMAR DIAZ is my current husband.
- 11 3. I have read the contents of this Application for Preliminary Injunctive relief, and the
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- 13 4. In 2005, my ex-husband Lonny Plotkin and I applied for consumer credit with R.C.
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 26 ACCTCORP agreed to remove the tradeline. See Exhibit 1, fax to RICHLAND dba
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 an adverse action on an auto loan.

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- 1 11. In August 2010, I again disputed this information with RICHLAND HOLDINGS dba
2 ACCTCORP, who indicated the report was in error and agreed to delete the tradeline on
3 my social security number. See Exhibit 2, Communication from ACCTCORP.
- 4 12. At that time, I sent dispute letters to all three national credit reporting agencies,
5 Defendants TRANSUNION, EQUIFAX, and Experian. She included the correspondence
6 from ACCTCORP indicating the report was in error, and TRANSUNION replied that the
7 *dispute had been investigated and found to be invalid*. See Exhibit 3, Communication to
TRANSUNION, and Exhibit 4, Communication from TRANSUNION.
- 8 13. In April of 2011, I disputed this tradeline directly with RC WILLEY, who agreed to
9 delete the tradeline on my social security number. See Exhibit 5, Letter from RC
WILLEY dated May 4, 2011.
- 10 14. The negative tradeline continues to appear on my credit reports with both
11 TRANSUNION and EQUIFAX. See Exhibits 6 and 7.
- 12 15. I am applying for Federal-based employment as a contractor to the Federal Bureau of
13 Investigation, which has already contacted me that the collections action may preclude
14 employment.
- 15 16. As I have exhausted every conceivable avenue of collection multiple times, I now seek
16 relief from the Court.

17 I SWEAR UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT.

MARIA DIAZ, Plaintiff

DIAZ / APP for PRELIMINARY INJUNCTION -7-

1
2 INDEX OF EXHIBITS
3
4 AFFIDAVIT OF MARIA DIAZ
5
6 Exhibit 1. Fax to ACCTCORP dated 8/11/2009 & Return draft to delete tradeline, dated
7 8/13/2009
8 Exhibit 2. Email from ACCTCORP, with draft to delete tradeline attached
9 Exhibit 3. Dispute Letter to TRANSUNION August 23, 2010
10 Exhibit 4. Reply from TRANSUNION September 1, 2010
11 Exhibit 5. Letter from RC WILLEY May 4, 2011
12 Exhibit 6. Current Transunion Credit Report (showing collections history only)
13 Exhibit 7. Current Equifax Consumer Credit Report (showing collections history only)
14
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EXHIBIT 1

Minelab USA, Inc.
871 Grier Drive,
Suite B 1
Las Vegas, NV 89119
(702) 891-8809
Fax (702) 891-8810

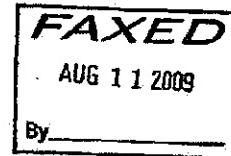


To: Acct Corp From: Maria G. Diaz-Aguilar
At: LUSA Pages: 11 including cover
Fax: 702-247-9802 Date: 08-11-2009
Subject: Copy of Divorce decree

Hi Lisa, as per your request, here is a copy of my divorce decree.
You can reach me at 702-588-1314 at any time.

Thanks so much for your assistance

A handwritten signature in cursive ink, appearing to read "Maria G. Diaz-Aguilar".



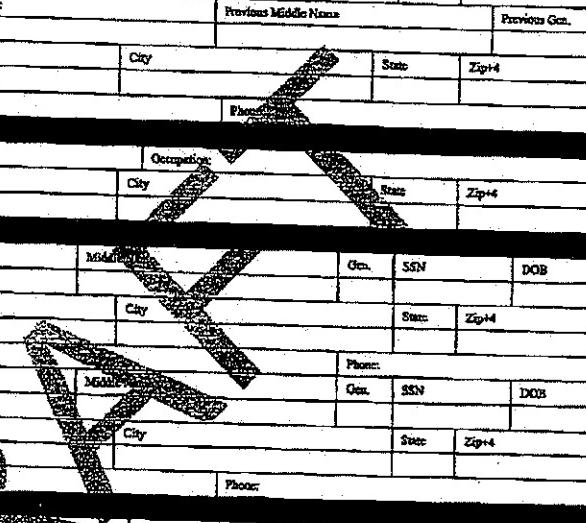
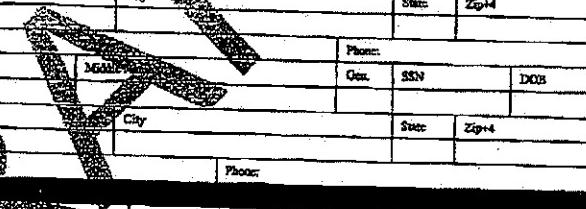
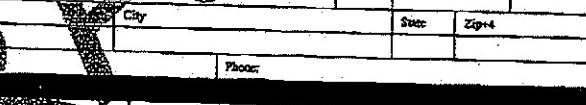
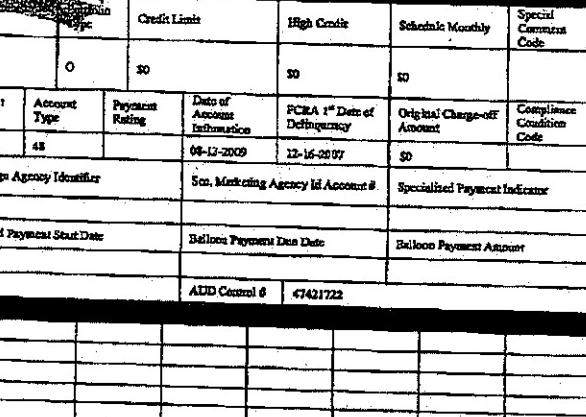
FAX ACKNOWLEDGEMENT

Please acknowledge receipt of the above items by completing and faxing this sheet to the sender.

I acknowledge receipt of pages above.

.....
Signature

.....
Date

Universal Data Form								
AUD Correction Indicator: Update <input type="checkbox"/> Delete <input checked="" type="checkbox"/> Delete due to fraud <input type="checkbox"/>								
Subscriber Name: ACCTCORP OF SOUTHERN NEVADA Subscriber Address: 4985 S DURANGO, STE177, LAS VEGAS, NV, 89113				Equifax SC: 164YCR22161 Experian SC: 1987420 Innovis SC: 2209650 TU SC: 2KF1001				
Customer Information								
Last Name	First Name	Middle Name	Gen.	SSN	DOB			
CHIVAREZ	MARIA							
Current Address 25 BISHOPSGATE TERRACE				City	State	Zip+4		
Previous Last Name		Previous First Name	Previous Middle Name	Previous Gen.				
Previous Address				City	State	Zip+4		
Consumer Information Indicator:		ECOA: 2	Phone: 					
Employment Information								
Employer Name:		Occupation:						
Current Address				City	State	Zip+4		
Marital Status Information								
Last Name	First Name	Middle Name	Gen.	SSN	DOB			
Current Address				City	State	Zip+4		
Consumer Information Indicator:		ECOA:	Phone: 					
Last Name	First Name	Middle Name	Gen.	SSN	DOB			
Current Address				City	State	Zip+4		
Consumer Information Indicator:		ECOA:	Phone: 					
Account Information								
Account Number	Date Opened	Current Payment Due Date	Current Payment Type	Credit Limit	High Credit	Schedule Monthly	Special Comments Code	
DS3944042	05-13-2009	05-13-2009	O	30	\$0	\$0		
Term Dur/Freq.	Date Closed	Actual Payment	Deferred Payment Due Date	Payment Rating	Date of Account Inactivation	FCRA 1st Date of Deficiency	Original Charge-off Amount	
/	03-13-2009		DA	48	08-13-2009	12-15-2007	\$0	
Original Creditor Name: RC WILLEY FURNISHINGS								
Purchased Portfolio or Sold Name:								
Managing ID #	ADD Control #						47421722	
Account History								

Autographed Signature: AILEEN ESPERO

Date: 08-13-2009

Tel#: (702) 240-3007

When you sign this form, you certify that your computer and/or manual records have been adjusted to reflect any changes made.

EXHIBIT 2

Gaby Olivarez

From: DAVID KAPLAN [D.KAPLAN@ACSNLV.COM]
Sent: Monday, August 23, 2010 2:21 PM
To: Gaby Olivarez
Subject: DELETION ON NAME 2 ONLY.pdf
Attachments: DELETION ON NAME 2 ONLY.pdf

ACCTCORP OF SOUTHERN NEVADA
4955 S. Durango Dr. Suite #177...Las Vegas, NV 89113
Phone (702) 240-3007..Fax (702) 247-9802.
E-Mail: D.KAPLAN@ACSNLV.COM

per your request

Sincerely,

David Kaplan

PRIVACY POLICY: We do not share "Non Public Information" with any "Third Parties or Entities". All information provided shall be kept confidential and we shall treat same as privileged.
THIS IS AN ATTEMPT TO COLLECT A DEBT FROM A DEBT COLLECTION AGENCY; ANY INFORMATION OBTAINED WILL BE USED ONLY FOR THAT PURPOSE

Universal Data Form								
ADD Corrections Indicate: Update <input type="checkbox"/> Delete <input checked="" type="checkbox"/> Delete due to fraud <input type="checkbox"/>								
Subscriber Name: ACCTCGRP OF SOUTHERN NEVADA Subscriber Address: 4555 S DURANGO, STE 177, LAS VEGAS, NV, 89113				Experian SC: 164YC022165 Equifax SC: 1987420 Innovis SC: 2105650 TU SC: 2891001				
Demographic Information								
Last Name	First Name	Middle Name	Gen.	Sex	DOB			
OLIVAREZ	MARIA							
Current Address			City	State	Zip/4			
25 BURGESSATE TERRACE			HENDERSON	NV	89074			
Previous Last Name	Previous First Name		Previous Middle Name	Previous Gen.				
Previous Address			City	Date	Zip/4			
Consumer Information Indicator:		ECCDA: 2	Phone: [REDACTED]					
Employer Information								
Employer Name:		Occupation:						
Current Address			City	Date	Zip/4			
Association/Cooperative Information								
Last Name	First Name	Middle Name	Gen.	SSN	DOB			
Current Address			City	Date	Zip/4			
Consumer Information Indicator:		ECCDA:	Phone: [REDACTED]					
Account Information								
Account Number	Date Opened	Current Status	Type	Credit Limit	High Credit	Schedule Monthly	Special Credit Card Code	
13394482	06	[REDACTED]	D	30	50	50		
Term Date/Freq.	Date Closed	Actual Payment	Delinquent Payment Status	Account Type	Payment Rating	Date of Account Information	FCRA 1st Date of Delinquency	
/	06-13-2009	08-13-2009	DA	48		06-13-2009	02-16-2007	
Original Creditor Name		Creditors Classification		Mortgage Agency Identifier		Sec. Marketing Agency Id Account #		
RC WILLEY FURNISHINGS								
Purchaser of Portfolio or Sold Name		Delinquent Payment Start Date		Balloon Payment Due Date		Balloon Payment Amount		
Mortgage Id #								
Comments/Entry								
AID Control #: 47421722								

Authorized Signator: AILEEN EXPERO
Date: 08-13-2009

Tel#: (702) 240-3022

When you sign this form, you certify that your computer and/or manual records have been adjusted to reflect any changes made.

EXHIBIT 3

August 23, 2010

I SENT SAME LETTER
TO THE 3 CREDIT BUREAU
OFFICES!

Transunion credit Bureau
PO Box 2000
Chester, PA 19022

File # 226182144

Name: Maria Gabriela Diaz-Aguilar
Address: 400 Mackay Street. Henderson, NV 89015
SSN : XXX-XX-2728

File # 226182144

Reason: RC willeys made a big mistake on my credit history. My ex-husband was liable for an account and they reported the account to a collection agency under my social security on Dec 2006, which I divorced him on Jul 2006 and on the divorced decree he is 100% liable for the account. RC willeys reported to the collection agency the mistake and Account Corp of Southern Nevada submitted a deletion of this account from my credit history. Please update my records immediately and also I need it in writing that this account has been deleted from my history.

I am sending you copy of the email I received from the collection agency from David Kaplan.

You can contact me at all times at 702-588-1314

Or at the following emails

lrfuchs@hotmail.com

chama74@sprint.blackberry.net

Sincerely,

Maria Gabriela Diaz-Aguilar

Gaby Olivarez

From: DAVID KAPLAN [D.KAPLAN@ACSNLV.COM]
Sent: Monday, August 23, 2010 2:21 PM
To: Gaby Olivarez
Subject: DELETION ON NAME 2 ONLY.pdf
Attachments: DELETION ON NAME 2 ONLY.pdf

ACCTCORP OF SOUTHERN NEVADA
4955 S. Durango Dr. Suite #177... Las Vegas, NV 89113
Phone (702) 240-3007..Fax: (702) 247-9802.
E-Mail: D.KAPLAN@ACSNLV.COM

per your request

Sincerely,

David Kaplan

PRIVACY POLICY: We do not share "Non Public Information" with any "Third Parties or Entities". All information provided shall be kept confidential and we shall treat same as privileged.
THIS IS AN ATTEMPT TO COLLECT A DEBT FROM A DEBT COLLECTION AGENCY; ANY INFORMATION OBTAINED WILL BE USED ONLY FOR THAT PURPOSE

Authorized Signature: AILEEN ESPERD
Date: 08-13-2005

Tel#: (702) 240-3007

When you sign this form, you certify that your computer and/or manual records have been adjusted to reflect any changes made.

DIAZ PL22

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$ *12510*

Certified Fee

Return Receipt Fee
(Endorsement Required)

Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees \$ *12510*

Send To:
Treasurer
Street, Apt No.: *PO Box 2000*
or PO Box No.
City, State, Zip No.: *Chester PA 19022*

U.S. POSTAL SERVICE, INC. 2011 Copyright for the United States

EXHIBIT 4

*** 226182144-008 ***
 PO Box 2000
 Chester, PA 19022



09/01/2010 TransUnion

P17T8700201805-008257-000012494
 MARIA GABRIELA DIAZAGUILAR
 400 MACKAY ST
 HENDERSON, NV 89015

Our investigation of the dispute you recently submitted is now complete. The results are listed below. If an item you disputed is not in the list of results below, it was either not appearing in your credit file or it already reflected the corrected status at the time of investigation.

If our investigation has not resolved your dispute, you may add a 100-word statement to your report, if you provide a consumer statement that contains medical information related to service providers or medical procedures, then you expressly consent to TransUnion including this information in every credit report we issue about you. If you wish to obtain documentation or written verification concerning your accounts, please contact your creditors directly.

If there has been a change to your credit history resulting from our investigation, or if you add a consumer statement, you may request that TransUnion send an updated report to those who received your report within the last two years for employment purposes, or within the last one year for any other purpose.

If interested, you may also request a description of how the investigation was conducted along with the business name, address and telephone number of any company we may have contacted for information. Thank you for helping ensure the accuracy of your credit information.

For frequently asked questions about your credit report, please visit <http://transunion.custhelp.com>.

Investigation Results

ITEM	DESCRIPTION	RESULTS
PERSONAL INFORMATION R.C. WILLEY	# 2117992200	NEW INFORMATION BELOW VERIFIED, NO CHANGE

P17T87-002 01805-008257 DIAZ

EXHIBIT 5



Financial Services
P.O. Box 65320
Salt Lake City, Utah 84165-0320
Telephone 801.461.3940
Fax 801.461.3858

May 4, 2011

Maria Gabriela Diaz
400 Mackay St
Henderson NV 89015-6093

Re: RC Willey Account: 2117992200

Credit Bureaus Notified: Equifax, Experian and TransUnion

Dear Customer:

Per your request, and in accordance with The Fair Credit Reporting Act, we have reviewed the reporting of the RC Willey Account to the Credit Bureaus listed above. Due to a change in status or to an error in reporting, we have filed the following correction with the Credit Bureaus:

Deleted Delinquency 9/06

This correction is effective immediately, but please allow 30 days for the correction to appear in your file at the Credit Bureaus. This will allow the Credit Bureaus to fully research the problem to ensure it is cleared up completely and accurately.

We apologize for any inconvenience this may have caused you, and we look forward to being of service to you in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Jo Lynn Lanier".

Jo Lynn Lanier
Credit Bureau Research
801-493-4280

EXHIBIT 6

TransUnion

Page 2 of 13

Adverse Accounts

The following accounts contain information which some creditors may consider to be adverse. Adverse account information may generally be reported for 7 years from the date of the first delinquency, depending on your state of residence. The adverse information in these accounts has been printed in >brackets or is shaded for your convenience, to help you understand your report. They are not bracketed or shaded this way for creditors.

GMAC MORTGAGE #60251*****

Loan Type: FHA REAL ESTATE MORTGAGE
Remarks: >FORECLOSURE INITIATED<
>Maximum Delinquency of 120 days occurred in 09/2011 for \$4,822<
Estimated month and year that this item will be removed: 05/2016

ACCOUNT CORP OF SOUTHERN #D339***

4955 SOUTH DURANGO SUITE 117 LAS VEGAS, NV 89113 (702) 240-3007	Balance: \$5,888 Date Verified: 09/02/2005 Original Amount: \$5,611 Original Creditor: R C WILLEY HOME FURNISHINGS	Past Due: >\$5,888<	Pay Status: >In Collection- Account Type: Open Account Responsibility: Joint Account
--	--	---------------------	--

Date Placed for Collection: 06/19/2008
Remarks: >PLACED FOR COLLECTION<
Estimated month and year that this item will be removed: 11/2014

ESCALLATE INC #3124*****

5200 STONEHAM RD
 STE 200
 CANTON, OH 44720
 (877) 237-7787

Balance:	\$0	Pay Status:	>Account Paid in Full; was a Collection<
Date Updated:	12/19/2006	Account Type:	Open Account
Original Amount:	\$74	Responsibility:	Individual Account
Original Creditor:	MEDICAL-EPMG ST ROSE DOMINICAN HOSP (Medical/Health Care)	Date Closed:	11/17/2006
Last Payment:		Date Paid:	11/12/2006

Last Payment: 11/1
Loan Type: COLLECTION AGENCY/ATTORNEY
Date Placed for Collection: 08/24/2006
Remarks: >PAID COLLECTION<
Estimated month and year that this item will be removed: 11/2012

Satisfactory Accounts

The following accounts are reported with no adverse information.

CAPITAL ONE BANK USA NA #5

CIVIC BANK USA INC #323413203636444
 PO BOX 30281
 SALT LAKE CITY, UT 84130
 (800) 258-9319

Balance:	\$0	Pay Status:	Current; Paid or Paying as Agreed
Date Updated:	03/23/2009	Account Type:	Revolving Account
High Balance:	\$836	Responsibility:	Individual Account
Credit Limit:	\$800	Date Opened:	06/24/2001
Last Payment:	10/04/2008	Date Closed:	03/02/2009
		Date Paid:	10/04/2008

Loan Type: CREDIT CARD
Remarks: ACCOUNT CLOSED BY CONSUMER

<https://annualcreditreport.transunion.com/tabc/product/report/single?cb=FA>

11/4/2011

DIAZ PL29

EXHIBIT 7

A collection is an account that has been turned over to a collection agency by one of your creditors because they believe the account has not been paid as agreed.

RICHLAND HOLDINGS, INC DBA

Agency Address:	Acccorp Of Southern Nevada 4955 S Durango Dr Las Vegas, NV 891130152 (702) 240-3007
Date Reported:	09/2008
Date Assigned:	06/2008
Creditor Classification:	
Creditor Name:	R C WILLE HOME FURNISHINGS
Accounts Number:	D339XXXX

Original Amount Owned:	\$5,611
Date of 1 st Delinquency:	12/2007
Balance Date:	09/2008
Balance Owned:	\$5,888
Last Payment Date :	N/A
Status Date:	09/2008
Status:	D - Unpaid
Comments:	N/A ESCALATE, LLC



C O R P O R A T I O N S E R V I C E C O M P A N Y®

Notice of Service of Process

null / ALL
Transmittal Number: 9325424
Date Processed: 11/21/2011

Primary Contact: Daniel Halvorsen
Trans Union LLC
555 W. Adams Street
Chicago, IL 60661-3601

Entity: Trans Union LLC
Entity ID Number 1884665

Entity Served: TransUnion LLC

Title of Action: Maria Diaz vs. R.C. Willey Home Furnishings

Document(s) Type: Amended Complaint/Petition

Nature of Action: Other

Court/Agency: Clark County District Court, Nevada

Case/Reference No: A-11-651038-C

Jurisdiction Served: Nevada

Date Served on CSC: 11/18/2011

Answer or Appearance Due: Other/NA

Originally Served On: CSC

How Served: Regular Mail

Sender Information: Robert Ohlinger-Johnson
702-966-8270

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC.

CSC is SAS70 Type II certified for its Litigation Management System.

2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com

COM
HARRIS, YUG & OHLINGER
ELLIOTT D. YUG, ESQ.
Nevada Bar No. 5172
ROBERTA OHLINGER-JOHNSON,
Nevada Bar No. 10146
1489 Warm Springs Rd., # 110
Henderson, NV 89014
(702) 966-8270
Attorneys for Plaintiff(s)
MARIA DIAZ and OMAR DIAZ

**DISTRICT COURT
CLARK COUNTY, NEVADA**

10 MARIA DIAZ and OMAR DIAZ,)
11 Plaintiff(s))
12 vs.)
13 R.C. WILLEY HOME FURNISHINGS, a) CASE NO.: A 11-651038-C
14 Corporation, RICHLAND HOLDINGS, Inc., a)
15 Corporation dba ACCTCORP; EQUIFAX INC,) DEPT. NO.: XXVII
16 a Corporation, and TRANS UNION LLC, a)
17 Corporation, and EXPERIAN INFORMATION)
18 SOLUTIONS INC., a Corporation)
19 Defendant(s))

CERTIFICATE OF MAILING

I, Dawn DeMastrie, hereby certify that on the 17th day of November, 2011 I placed a true copy of the AMENDED COMPLAINT into the US Mail, postage prepaid, and addressed to the following at their last known address:

25 R.C. WILLEY HOME FURNISHINGS
26 20 North Stephanie Street
27 Henderson, NV 89074
28 *Defendant*

RICHLAND HOLDINGS, INC.
Dba ACCTCORP
8985 South Eastern
Suite #160
Las Vegas, NV 89123
Defendant

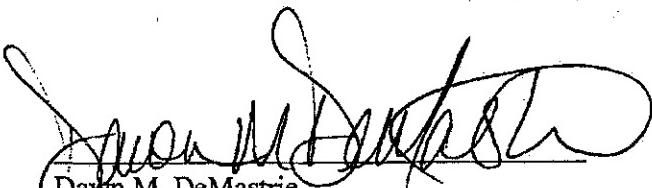
28 //

1 EXPERIAN INFORMATION SOLUTIONS INC
2 c/o The Corporation Trust Company of Nevada
3 311 South Division Street
Carson City, NV 89703
Defendant

EQUIFAX INC.
2215-B Renaissance Drive
Las Vegas, NV 89119
Defendant

TRANS UNION LLC
2215-B Renaissance Drive
Las Vegas, NV 89119
Defendant

Dated this 17th day of November, 2011.


Dawn M. DeMastrie
Legal Assistant
HARRIS, YUG and OHLINGER

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Electronically Filed
11/16/2011 01:57:26 PM

1 COMP
2 **HARRIS, YUG & OHLINGER**
3 ROBERTA OHLINGER-JOHNSON, ESQ.
4 Nevada Bar #10946
5 1489 W. Warm Springs Road, Ste #110
Henderson, NV 89014
702.966.8270 Telephone
866.592.8806 Facsimile
efile@HYandOAttorneys.com
Attorneys for Plaintiff(s)

Athena D. Johnson
CLERK OF THE COURT

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 MARIA DIAZ and OMAR DIAZ,)
11 Plaintiff(s)) CASE NO.: A 11-651038-C
12 vs.)
13 R.C. WILLEY HOME FURNISHINGS, a) DEPT. NO.: XXVII
14 Corporation, RICHLAND HOLDINGS, Inc., a) EXEMPT NOT EXEMPT FROM
15 Corporation dba ACCTCORP; EQUIFAX INC,) ADR pursuant to NAR 3A - Requests
16 a Corporation, and TRANS UNION LLC, a) Equitable Relief
17 Corporation, and EXPERIAN INFORMATION)
18 SOLUTIONS INC., a Corporation
19 Defendant(s)

20
21 **AMENDED COMPLAINT**

22
23 COMES NOW, Plaintiff(s), through their attorneys of record, Roberta Ohlinger and Elliott Yug
24 of HARRIS YUG AND OHLINGER, and complain and allege as follows:
25

26 **STATEMENT OF THE PARTIES**

27 1. Plaintiffs MARIA DIAZ, formerly MARIA PLOTKIN, and OMAR DIAZ are consumers
28 within the meaning of the Fair Credit Reporting Act, henceforth FCRA, 15 USC § 1681a.

2. Defendant R.C. WILLEY HOME FURNISHINGS, hereinafter RC WILLEY, is a retailer
1
of furniture, who provides consumer credit for purchase of their products, and is a
2
furnisher of information to consumer reporting agencies pursuant to the FCRA.
3
3. Defendant RICHLAND HOLDINGS, INC. dba Acctcorp of Southern Nevada,
4
hereinafter RICHLAND, is a collections agency and a *furnisher of information* to
5
consumer reporting agencies within the ambit of the FCRA.
6
4. Defendants EQUIFAX, INC, hereinafter EQUIFAX, and TRANS UNION LLC,
7
hereinafter TRANSUNION, and EXPERIAN INORMATION SYSTEMS INC.,
8
hereinafter Experian, are agencies which compile information on credit worthiness and
9
provides *consumer reports* as defined in the FCRA, 15 USC § 1681a.
10
5. Plaintiff(s) repeat and reallege all allegations above.
11

12
13 JURISDICTION

- 14 5. Plaintiff(s) repeat and reallege all allegations above.
15
- 16 6. Plaintiffs at all times were and are residents of the County of Clark, State of Nevada.
17
- 17 7. Defendant R.C. WILLEY HOME FURNISHINGS is a foreign corporation which does
18 business in Clark County, Nevada, and this Court has jurisdiction.
19
- 19 8. The underlying contracts with R.C. WILLEY were entered into in the County of Clark,
20 State of Nevada, and this court has jurisdiction.
21
- 21 9. Upon information and belief, Defendant RICHLAND HOLDINGS, INC. is a corporation
22 doing business as Acctcorp of Southern Nevada in the County of Clark, State of Nevada,
23 and this court has jurisdiction.
24
- 24 10. Defendant EQUIFAX is a Corporation doing business in Nevada via the internet, and this
25 court has jurisdiction.
26
- 26 11. Defendant TRANS UNION, LLC is a foreign Corporation doing business in Nevada via
27 the internet, and this court has jurisdiction.
28

FIRST CLAIM FOR RELIEF

(Violation of the Fair Credit Reporting Act, 15 USC §1681 *et. seq.*)

8 14. Plaintiff(s) repeat and reallege all allegations above.

18 17. Upon information and belief, the Account was transferred to a new account, which
19 should have been Mr. Plotkin's separate account, but was at least negligently designated
20 a joint account.

18. Upon information and belief, Mr. Plotkin began to have delinquencies sometime in 2007.

23 19. This negative tradeline was reported by RC WILLEY and RICHLAND, as their agent, to
24 TRANS UNION, EQUIFAX, and EXPERIAN in 2008 as a collections history against
25 MARIA.

- 1 20. On or about August 2009, MARIA became aware of the negative report because of an
2 adverse action on a home loan. MARIA contacted ACCTCORP, and requested a
3 correction. At that time, MARIA had excellent credit except for this single tradeline.
4 21. On or about August 2010, MARIA became aware of the continuing negative tradeline
5 because of an adverse action on an auto loan.
6
7 22. In August 2010, MARIA again disputed this information with RICHLAND HOLDINGS
8 dba ACCTCORP, who indicated the report was in error and agreed to delete the tradeline
9 on her social security number.
10 23. At that time, MARIA sent dispute letters to all three national credit reporting agencies,
11 Defendants TRANSUNION, EQUIFAX, and EXPERIAN. She included the
12 correspondence from ACCTCORP indicating the report was in error, and
13 TRANSUNION replied that the *dispute had been investigated and found to be invalid.*
14
15 24. In April of 2011, MARIA disputed this tradeline directly with RC WILLEY, who agreed
16 to delete the tradeline on her social security number.
17
18 25. As of the date of drafting, OCTOBER 24, 2011, the negative tradeline continues to
19 appear on her credit reports with both TRANSUNION and EQUIFAX.
20
21 26. MARIA and OMAR DIAZ have been damaged in adverse actions by lenders for this
22 negative collections history, causing the Plaintiff's to suffer an increased interest rate in
23 their automobile and home loans, including a denial of credit for which they otherwise
24 qualified, and now MARIA and OMAR DIAZ are threatened with the loss of federal
25 employment as a direct result of the continued mis-reporting.
26
27
28

27. That the Defendants have collectively failed to maintain reasonable procedures for the investigation of credit disputes; that the Defendants have failed to investigate a dispute; and that the Defendants have collectively failed to delete an erroneous tradeline.

28. That each and every one of these Defendants have acted if not intentionally, then at least with reckless disregard for the rights of the individual and their duties pursuant to statute, thereby justifying punitive damages sufficient to deter like conduct.

SECOND CLAIM FOR RELIEF

(Negligent Undertaking)

29. Plaintiff(s) repeat and reallege all allegations above.

30. Each and every one of the Defendants owes a duty to the Defendant that if they are going to report consumer credit information, they must provide accurate information.

31. Each and everyone of these Defendants has breached that duty, and callously injured and endangered the economic and employment welfare of the Plaintiffs in the midst of the highest unemployment and general economic downturn in the modern century.

32. Each and everyone of these Defendants has acted with callous disregard for the rights of Plaintiffs and their duties pursuant to statute, so as to justify an award of punitive damages sufficient to deter like conduct.

THIRD CLAIM FOR RELIEF AS TO RICHLAND HOLDINGS & ACCTCORP

(Violation of 15 USC § 1692 *et seq.*, Fair Debt Collections Practices Act)

33. Plaintiff(s) repeat and reallege all allegations above.

34. That RICHLAND and ACCTCORP are debt collectors subject to the Fair Debt Collections Practices Act, 15 USC 1692 et. seq., henceforth FDCPA.

- 1 35. That these Defendants have engaged in multiple violations of the FDCPA, in failing to
2 report that a debt is disputed and misrepresenting the legal characterization of the debt.
3 36. That these errors have been persistent and ongoing.

4

5 **WHEREFORE** Plaintiffs pray for Judgment as follows:

- 6 1. Temporary and permanent injunction against the Defendants from continued
7 reporting of the tradeline against Ms. Diaz;
8
- 9 2. Damages in excess of \$10,000 in an amount to be proven at trial;
- 10 3. Statutory damages;
- 11 4. Punitive damages pursuant to statute;
- 12 5. A reasonable attorney fees and costs of suit;
- 13 6. And other such relief as the Court should find just and proper in the
14 circumstances.
- 15

16 Respectfully submitted this 16th day of November, 2011.

17 By: /s/ R. Ohlinger
18 HARRIS, YUG & OHLINGER
19 ROBERTA OHLINGER-JOHNSON
20 Nevada Bar #10946
21 Attorneys for Plaintiff(s)

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HARRIS, YUG & OHLINGER
1489 W. Warm Springs Road, Ste. #110
Henderson, NV 89014

TRANS UNION LLC
2215-B Renaissance Drive
Las Vegas, NV 89119

EXHIBIT "B"

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2 Nevada Bar No. 9324
3 SNELL & WILMER L.L.P.
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5 Las Vegas, NV 89169
6 Telephone: (702) 784-5200
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8 Email: sprior@swlaw.com

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10 Attorneys for Defendant
11 EQUIFAX INC.

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARIA DIAZ and OMAR DIAZ,

Plaintiff,

vs.

R.C. WILLEY HOME FURNISHINGS, a Corporation, RICHLAND HOLDINGS, Inc., a Corporation dba ACCTCORP; EQUIFAX INC, a corporation, and TRANS UNION LLC, a Corporation

Defendants

CASE NO.

JOINDER AND CONSENT TO REMOVAL OF EQUIFAX, INC

Without waiving any other defenses, Equifax, Inc., hereby joins in and consents to the removal of this action from the District Court, Clark County, Nevada, to this Court.

Equifax, Inc. first received a copy of the Complaint, the initial pleading setting forth the claim for relief upon which this action is based, on November 8, 2011.

DATED this 21 day of November, 2011.

SNELL & WILMER L.L.P.

By:


Paul S. Prior
Nevada Bar No. 9324
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169

Attorneys for Defendant
EQUIFAX INC.

1 KEVIN R. HANSEN, ESQ.
2 Nevada Bar No. 6336
3 **SHUMWAY, VAN & HANSEN**
4 8985 South Eastern Avenue, Suite 100
5 Las Vegas, Nevada 89123
6 kevin@shumwayvan.com
7 Attorney for Defendants
8 R.C. WILLEY HOME FURNISHINGS, and
9 RICHLAND HOLDINGS, INC. d/b/a ACCTCORP

10
11 **UNITED STATES DISTRICT COURT**
12
13 **DISTRICT OF NEVADA**

14 MARIA DIAZ AND OMAR DIAZ,

15 Case No.: _____

16 vs.
17 Plaintiffs,
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19 R.C. WILLEY HOME FURNISHINGS,
20 RICHLAND HOLDINGS, INC. d/b/a
21 ACCTCORP, EQUIFAX INC., and TRANS
22 UION LLC,
23 Defendants

24
25 **DEFENDANTS R.C. WILLEY HOME FURNISHINGS**
26 **and RICHLAND HOLDINGS, INC. d/b/a ACCTCORP**
27 **CONSENT TO REMOVAL**

28 Without waiving any of its defenses or any other rights, Defendant R. C. Willey
1 Home Furnishings and Defendant Richland Holdings, Inc. dba Acctcorp of Southern
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SHUMWAY VAN & HANSEN
8985 South Eastern Ave., Ste 100
Las Vegas NV 89123
Tel (702) 478-7770 Fax (702) 478-7779

1 Nevada hereby consent to the removal of the above-captioned matter from the District
2 Court of Clark County, Nevada to the United States District Court for the District of
3 Nevada.

4 Dated November 18, 2011.
5

6 SHUMWAY, VAN & HANSEN
7 
8

9 Kevin R. Hansen, Esq.
10 Nevada State Bar No. 6336
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12 Las Vegas, Nevada 89123
13 Attorney for Defendants
14 R.C. WILLEY HOME FURNISHINGS, and
15 RICHLAND HOLIDNGS, INC. d/b/a
16 ACCTCORP
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2 FRANCESCA VAN BUREN
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3 3960 Howard Hughes Pkwy., 9th Floor
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4 Tel: (702) 796-5555
Fax: (702) 369-2666

*Attorneys for
Experian Information Solutions, Inc.*

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARIA DIAZ and OMAR DIAZ,

| NO.

Plaintiff.

v

CONSENT TO REMOVAL

R.C. WILLEY HOME FURNISHINGS, a Corporation, RICHLAND HOLDINGS, INC., a Corporation dba ACCTCORP; EQUIFAX INC, a Corporation, and TRANS UNION, LLC; a Corporation, and EXPERIAN INFORMATION SOLUTIONS, INC., a Corporation.

Defendants.

Without waiving any of its defenses, rights or remedies, all of which are hereby reserved in full, Experian Information Solutions, Inc. (“Experian”), consents to and does not oppose the removal of Case No. A 11-651038, originally filed in the Eighth Judicial District Court, Clark County, Nevada, to the United States District Court for the District of Nevada.

DATED this 22nd day of November 2011

GORDON SILVER

/s/ Franchesca V. Van Buren

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Attorneys for EXPERIAN INFORMATION

SOLUTIONS, INC